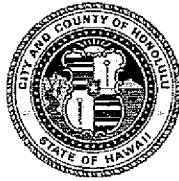


DEPARTMENT OF TRANSPORTATION SERVICES
CITY AND COUNTY OF HONOLULU

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HONOLULU HAWAII 96813
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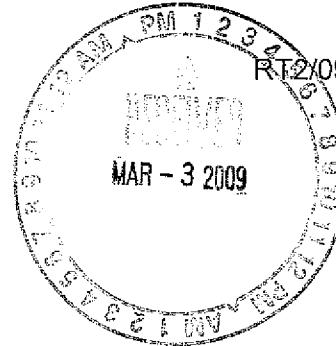
MUFI HANNEMANN
MAYOR



WAYNE Y. YOSHIOKA
ACTING DIRECTOR

SHARON ANN THOM
DEPUTY DIRECTOR

February 25, 2009



RT2/09-301420

Mr. Leslie T. Rogers, Regional Administrator
Federal Transit Administration, Region IX
U.S. Department of Transportation
201 Mission Street, Suite 1650
San Francisco, California 94105

Attention: Ms Catherine Luu, General Engineer

Dear Mr. Rogers:

Subject: Honolulu High-Capacity Transit Corridor Project
Exception to the 100% Federal Transit Administration (FTA)
Performance bonding requirement for the West Oahu/Farrington
Highway Guideway Design-Build (WOFH DB) Contract

The City and County of Honolulu (City) requests a waiver from the performance bond requirements of 49 CFR Section 18.36(h), as permitted by the regulations and Section 2 h.(1)(e) of FTA Circular 4220.1F, Third Party Contracting Guidance.

The Director, Department of Budget and Fiscal Services, as the City's Chief Procurement Officer, has determined that the potential for increased competition relative to the potential increased financial risk in accepting bonds of less than 100 percent of the contract price is in the City's best interest. Therefore, the City's Chief Procurement Officer has approved a reduction in the contract performance and payment bonds for the WOFH DB Contract to not less than 50 percent of the contract price, pursuant to Section 3-122-225(a)(1) of the Hawaii Administrative Rules on Procurement (HAR).

HAR Section 3-122-225(a)(1) establishes the State of Hawaii's (State's) policies for allowing a reduction of contract performance and payment bond amounts as follows:

- (a) "Prior to the deadline for receipt of offers and during performance of the contract, the amounts of a performance and a payment bond may be reduced upon written determination by the chief procurement officer or head of a purchasing agency that it is in the best interest of the State to do so.
 - (1) For construction contracts only, and prior to the deadline for receipt of offers, reduction of performance and payment bond amounts shall be limited to not less than fifty percent of the contract price."

Mr. Leslie T. Rogers
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The City and County of Honolulu requests that FTA accept the bonding policies of the State of Hawaii as adequate to protect the federal interest in the project as permitted by FTA Circular 4220.1F dated 11-01-08, Third Party Contracting Guidance, Chapter IV-23, Section 2 h (1)(e), on the basis of the following information

The current world-wide financial crisis has resulted in extraordinary pressures on the entire U.S. public transportation industry. Mounting losses in the financial sector have made it difficult for even the most responsible public agencies and construction firms to carry out much needed transportation projects. Under these circumstances, it is reasonable to assume that fewer and fewer offerors will have sufficient bonding capacity to meet a 100 percent bonding requirement on contracts in the range of 500 million dollars and above than might otherwise be expected. Discussions with other public agencies and the Surety and Fidelity Association of America have confirmed the likelihood that a 100 percent performance bonding requirement could adversely affect the level of competition to be expected for the WOFH DB contract.

Typical of large public transportation projects, preliminary scheduling of the work for the WOFH DB contract strongly suggests that at no time will an amount greater than 50 percent of the contract price be at risk. The contractor's work and the contractor's financial management of the project will be closely monitored by City and its consultants. We expect to have early warning performance and financial indicators in place that will signal whether remedial measures are needed, and if so appropriate measures can be taken in a timely manner to control the risk.

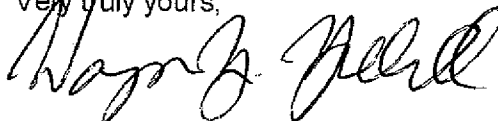
The potential for increased competition balanced against the relatively low risk attendant to the reduced bonding level afforded under the HAR's bonding policies serve the federal interest in promoting competition while reducing project risk to acceptable levels.

Finally, no federal funds are expected to be used to carry out the WOFH DB contract. Therefore, there is no federal financial risk involved in accepting the State bonding policies for this contract.

The City is fully committed to ensure no action is taken that would jeopardize preserving the eligibility of the City's expenditures in the event that the work may be included under a future Full Funding Grant Agreement for the Honolulu High-Capacity Transit Corridor Project. Accordingly, we request FTA waive the 100 percent performance bond requirements and accept the City's Chief Procurement Officer's determination as sufficient to protect the federal interest. Your response by March 20, 2009 will be appreciated.

If you have any questions, please contact Mr. Toru Hamayasu at (808) 768-8344 or thamayasu@honolulu.gov.

Very truly yours,



Wayne Y. Yoshioka
Director